

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TIBCO SOFTWARE INC.,
Plaintiff,
v.
FEI COMPANY,
Defendant.

Case No. [5:17-cv-00696-EJD](#)

**ORDER GRANTING FEI COMPANY'S
MOTION FOR MORE DEFINITE
STATEMENT**

Defendant FEI Company moves for a more definite statement under Fed. R. Civ. P. 12(e).
FEI's motion will be GRANTED.

I. LEGAL STANDARD

Fed. R. Civ. P. 12(e) allows a party to move for a more definite statement if a pleading "is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading." Rule 12(e) motions "are viewed with disfavor, and are rarely granted." Cellars v. Pac. Coast Packaging, Inc., 189 F.R.D. 575, 578 (N.D. Cal. 1999). Rule 12(e) motions attack the intelligibility of the complaint, not the lack of detail, and are properly denied where the complaint

1 notifies the defendant of the substance of the claims asserted. Beery v. Hitachi Home Elecs., Inc.,
2 157 F.R.D. 477, 480 (C.D. Cal. 1993). “If the detail sought by a motion for more definite
3 statement is obtainable through discovery, the motion should be denied.” Id.

4 **II. DISCUSSION**

5 In this action, Plaintiff Tibco Software Inc. alleges that FEI has failed to pay fees due
6 under a software license agreement. Compl. ¶¶ 5–12, Dkt. No. 1. Tibco’s sole cause of action
7 alleges that FEI breached that agreement. Id. ¶¶ 13–18. Tibco’s prayer for relief reads in its
8 entirety:

9 . . . Plaintiff prays for relief as follows:

- 10 1. For an order directing FEI to pay the license and maintenance fees
11 due, plus prejudgment and post-judgment interest;
- 12 2. For costs of suit, expenses, and attorneys’ fees; and
- 13 3. For such other and further relief as the Court deems just and
14 proper.

14 Id. at 3.

15 FEI argues that it cannot determine “whether Plaintiff is seeking injunctive relief—i.e.,
16 presumably, an order requiring Defendant’s specific performance of the Agreement—or money
17 damages in an unspecified sum.” Def.’s Mot. for More Definite Statement (“Mot.”), Dkt. No. 11
18 at 4. Because of this ambiguity, FEI says, it cannot determine the affirmative defenses it may
19 plead, or whether it is entitled to a jury trial. Id. at 5–7. FEI notes that the civil cover sheet states
20 that Tibco seeks both “[m]onetary and injunctive relief.” Dkt. No. 1-1.

21 Tibco responds that its desired remedy is “plain”: it seeks “enforcement of the Agreement
22 via payment of the fees due.” Pl.’s Opp’n to Def.’s Mot. for More Definite Statement, Dkt. No. 18
23 at 3. Tibco does not directly address whether it seeks monetary or injunctive relief; instead, it
24 argues that it “has not plead[ed] a cause of action for specific performance” and that “is not
25 required to plead a separate cause of action for specific performance.” Id. at 4. Tibco further
26 argues that more definiteness is not required because FEI can choose not to respond at all. Id. at 5.

27 The Court agrees with FEI. As pleaded, the complaint is too vague to enable FEI to

adequately prepare an answer. As ordered below, Tibco must amended its complaint to clarify the remedies it seeks.

FEI also argues that Tibco's "unfounded claim for attorneys' fees is vague, particularly without reference to the Agreement, or any other basis for such a claim." Mot. at 7. Here, the Court disagrees. Tibco's claim for attorneys' fees is sufficiently clear.

III. CONCLUSION

FEI's motion for a more definite statement is GRANTED. Within 14 days, Tibco shall file an amended complaint that clarifies the remedies it seeks. The hearing scheduled for April 27, 2017, is VACATED.

IT IS SO ORDERED.

Dated: April 21, 2017


EDWARD J. DAVILA
United States District Judge